

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

MAURICE ANTHONY BROWN,

Plaintiff,

v.

JACI MICHAELIS, *et al.*,

Defendants.

CASE NO. 2:22-cv-00828-LK-GJL

ORDER DIRECTING SERVICE OF
SECOND AMENDED
COMPLAINT

This is a civil rights action brought pursuant to 42 U.S.C. § 1983. Plaintiff is proceeding with this action *pro se* and *In Forma Pauperis*. The Court, having reviewed Plaintiff's Motion to Amend his Complaint (Dkt. 49) and accepted the Second Amended Complaint (Dkt. 52) for filing, hereby **ORDERS** as follows:

(1) Service by Clerk

The Clerk is directed to send the following to the these named Defendants by e-mail: Washington Department of Corrections, Cheryl Strange, McIntyre, Sgt. Richardson, Dan White, Jaci Michaelis, a copy of Plaintiff's Second Amended Complaint, a copy of this Order, two

1 copies of the notice of lawsuit and request for waiver of service of summons, and a waiver of
2 service of summons.

3 (2) Response Required

4 Defendant(s) shall have **thirty (30) days** within which to return the waiver of service of
5 summons. A defendant who timely returns the signed waiver shall have **sixty (60) days** after the
6 date designated on the notice of lawsuit to file and serve an answer to the complaint or a motion
7 permitted under Rule 12 of the Federal Rules of Civil Procedure.

8 A defendant who fails to timely return the signed waiver will be personally served with a
9 summons and complaint, and may be required to pay the full costs of such service, pursuant to
10 Rule 4(d)(2) of the Federal Rules of Civil Procedure.

11 (3) Filing and Service by Parties, Generally

12 All attorneys admitted to practice before this Court are required to file documents
13 electronically via the Court's CM/ECF system. Counsel are directed to the Court's website,
14 www.wawd.uscourts.gov, for a detailed description of the requirements for filing via CM/ECF.
15 All non-attorneys, such as *pro se* parties and/or prisoners, may continue to file a paper original
16 with the Clerk. All filings, whether filed electronically or in traditional paper format, must
17 indicate in the upper right-hand corner the name of the magistrate judge to whom the document
18 is directed.

19 Any document filed with the Court must be accompanied by proof that it has been served
20 upon all parties that have entered a notice of appearance in the underlying matter.

21 (4) Motions, Generally

22 Any request for court action shall be set forth in a motion, properly filed and served.
23 Pursuant to LCR 7(b), any argument being offered in support of a motion shall be submitted as a
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part of the motion itself and not in a separate document. The motion shall include in its caption (immediately below the title of the motion) a designation of the date the motion is to be noted for consideration upon the Court's motion calendar.

Stipulated and agreed motions, motions to file over-length motions or briefs, motions for reconsideration, joint submissions pursuant to the option procedure established in LCR 37(a)(2), motions for default, requests for the clerk to enter default judgment, and motions for the court to enter default judgment where the opposing party has not appeared shall be noted for consideration on the day they are filed. *See* LCR 7(d)(1). All other non-dispositive motions shall be noted for consideration no earlier than the third Friday following filing and service of the motion. *See* LCR 7(d)(3). All dispositive motions shall be noted for consideration no earlier than the fourth Friday following filing and service of the motion. *Id.*

For electronic filers, all briefs and affidavits in opposition to either a dispositive or non-dispositive motion shall be filed and served not later than 11:59 p.m. on the Monday immediately preceding the date designated for consideration of the motion. If a party (i.e. a *pro se* litigant and/or prisoner) files a paper original, that opposition must be received in the Clerk's office by 4:30 p.m. on the Monday preceding the date of consideration.

The party making the motion may file and serve, not later than 11:59 p.m. (if filing electronically) or 4:30 p.m. (if filing a paper original with the Clerk's Office) on the date designated for consideration of the motion, a reply to the opposing party's briefs and affidavits.

(5) Motions to Dismiss and Motions for Summary Judgment

Parties filing motions to dismiss pursuant to Rule 12 of the Federal Rules of Civil Procedure and motions for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure should acquaint themselves with those rules. As noted above, these motions shall be

1 noted for consideration no earlier than the fourth Friday following filing and service of the
2 motion.

3 Defendants filing motions to dismiss or motions for summary judgment are advised that
4 they MUST serve a *Rand* notice concurrently with motions to dismiss and motions for summary
5 judgment so that a *pro se* prisoner plaintiff will have fair, timely and adequate notice of what is
6 required in order to oppose those motions. *Woods v. Carey*, 684 F.3d 934, 941 (9th Cir. 2012).

7 The Ninth Circuit has set forth model language for such notices:

8 A motion for summary judgment under Rule 56 of the Federal Rules of
9 Civil Procedure will, if granted, end your case.

10 Rule 56 tells you what you must do in order to oppose a motion for summary
11 judgment. Generally, summary judgment must be granted when there is no
12 genuine issue of material fact – that is, if there is no real dispute about any
13 fact that would affect the result of your case, the party who asked for
14 summary judgment is entitled to judgment as a matter of law, which will
15 end your case. When a party you are suing makes a motion for summary
16 judgment that is properly supported by declarations (or other sworn
17 testimony), you cannot simply rely on what your complaint says. Instead,
**you must set out specific facts in declarations, depositions, answers to
interrogatories, or authenticated documents, as provided in Rule 56(e),
that contradict the facts shown in the defendant's declarations and
documents and show that there is a genuine issue of material fact for
trial. If you do not submit your own evidence in opposition, summary
judgment, if appropriate, may be entered against you. If summary
judgment is granted, your case will be dismissed and there will be no
trial.**

18 *Rand v. Rowland*, 154 F.3d 952, 963 (9th Cir. 1998) (emphasis added).

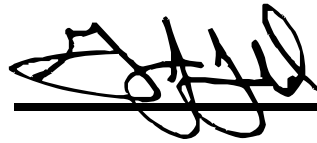
19 Defendants who fail to file and serve the required *Rand* notice on Plaintiff may have their
20 motion stricken from the Court's calendar with leave to re-file.

21 (6) Direct Communications with District Judge or Magistrate Judge

22 No direct communication is to take place with the District Judge or Magistrate Judge with
23 regard to this case. All relevant information and papers are to be directed to the Clerk.
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1 (7) The Clerk is directed to send copies of this Order to Plaintiff. The Clerk is further
2 directed send a copy of this Order and a courtesy copy of Plaintiff's Second Amended Complaint
3 to the Washington State Attorney General's Office by e-mail.

4 Dated this 31st day of October, 2023.

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8 Grady J. Leupold
9 United States Magistrate Judge
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